IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 398 OF 2004

IN

SUM. SUIT NO. 1340 OF 2004

Chandulal J. Jain . .. Plaintiff.

vs.

M/s. Rajeshwari Export

INC .. Defendants.

Mr. R. Singh i/by S.M. Jain for plaintiff.

Mr. Kiran Jain for defendant.

CORAM : S.U. KAMDAR, J.

DATE : 1st SEPTEMBER, 2005.

P.C.:

. The present suit is filed in respect of the goods sold and delivered under various bills. According to the plaintiff the outstanding amount is Rs. 1,47,156/-. After giving credit for the goods returned of Rs. 12,620/- the balance due and payable is Rs. 1,34,536/-. The amount of interest is Rs. 21,464/-. The present suit is filed for recovery of Rs. 1,56,000/-.

2. The defendant has disputed the claim. According to the defendant he has a counter claim. He contends that the amount of the goods returned is much larger than Rs. 12,620/- But he is unable to show any document to indicate what is the amount of which set off is sought. The next contention is that the suit is on account. On the perusal of the particulars of claim I find that the suit is filed only on bill no. 79. However, with a view to give a chance to defend to the defendant, I direct the defendant to deposit Rs. 1 lac in this Court within a period of 8 weeks from today failing which the plaintiff will be entitled to decree as sought. If the amount is so deposited, the Prothonotary and Senior Master, High Court, Bombay, is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time thereafter till further orders from this Court.

3. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from today. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.